IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
Judge's Order No.483 of 2006
In
Trust Petition No.1 of 2001

Ravindra N. Merchant. ... ... Petitioner
v/s.
1. Niranjan N. Merchant & anr. ... Respondents

Mr.Baldev H. Bhalwal for respondent No.1.

CORAM : SMT.R.S. DALVI, J.

DATED : 15th March, 2007

P.C. :

1. An order in a Chamber Summons taken out in the Trust Petition came to be passed, under which the rights of parties to specific portions of the property of the family came to be considered. Along with the order in the Chamber Summons, the above Judge's order came to be passed for taking forcible possession of the 1st floor, Ravi Kiran, 27, French Road, Opp. Chowpatty, Mumbai-400 007, by executing the warrant of possession under Order XXI Rules 35 and 36 of the Code of Civil Procedure, 1908, dated 20.10.2006 in terms of the execution of the decree passed on 20.8.2005. The Bailiff as well as the Police were required to act upon the certified copy of that Judge's order.

2. The Court is informed that though the

Bailiff went to execute the warrant of possession and take forcible possession along with the Police Officer of Gamdevi Police Station, the wife of the Petitioner, who was found in possession of the flat on the 1st floor of Ravi Kiran, offered resistance and obstructed execution of the warrant of possession and hence, the warrant of possession could not be executed despite the order for taking forcible possession and despite directing the Bailiff as well as the Police to act upon the certified copy of the Judge's order. This shows how forcible possession is taken by the officers of the Court when an order of forcible possession was passed. No further orders need be passed save and except that it is clarified that the Bailiff as well as the Police Officer shall execute the warrant of possession and obtain possession forcibly, if required, of the 1st floor of Ravi Kiran, 27, French Road, Opp. Chowpatty, Mumbai 400 007 in terms of the Judge's order dated 5.2.2007.

3. The Bailiff shall report compliance of the Judge's order to Court. Respondent No.1 shall be entitled to take out proceedings in contempt, if the Judge's order is not enforced.

(Smt.R.S. Dalvi, J.)